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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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James Lee Plamondon

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
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EXAMINER

UHLIR, CHRISTOPHER J

ART UNIT

PAPER NUMBER

2837

NOTIFICATION DATE

DELIVERY MODE

09/12/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/585,579	Applicant(s) PLAMONDON, JAMES LEE	
	Examiner CHRISTOPHER UHLIR	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Receipt is acknowledged of applicant's amendment filed June 9, 2008. Claims 11-25 have been canceled without prejudice. Claims 26-37 are pending and an action on the merits is as follows.

Applicant's arguments with respect to claim have been considered but are moot in view of the new grounds of rejection.

Claim Objections

1. Claims 29 and 35 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claims, or amend the claims to place the claims in proper dependent form. These claims recite only specific function of previous limitations and lacks structure. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. See MPEP § 2106 II.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 26 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims pertain to the location of finger actuated note identifier input buttons being “in a substantially two-dimensional” zone. It is unclear what is meant by “substantially two dimensional” because this phrase does not clearly describe the metes and bounds of applicant’s claimed invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 26-28, 31-34, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsushima et al. (US 5,313,010).

In reference to claim 26, Matsushima et al. discloses a portable user operated polyphonic button-field electronic music controller shown in FIG. 2 to have at least five finger actuated note identifier input buttons (push button switches SR1-SR8) in a two-dimensional first zone. FIG. 1 shows said note identifier input buttons SR1-SR8 to be actuated by at least one finger of a user’s first hand (column 5 lines 41-43) for generating a note identifier output used to create a musical note (column 8 lines 36-39).

A thumb actuated per-field effect value input device (operating pad 5R) is further shown in FIG. 1 to be in a second zone and is actuated by the user’s thumb on said first

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hand to produce a per-field effect value output (column 10 lines 3-11). This figure further shows said first and second zones to be arranged to allow simultaneous actuation of a plurality of said note identifier input buttons SR1-SR8, and the thumb actuated per-field effect value input device 5R.

In reference to claim 27, Matsushima et al. discloses a controller as stated above, where the thumb actuated per-field effect value input device 5R is multi-variate as can be seen from FIG. 4 (column 20-23).

In reference to claim 28, Matsushima et al. discloses a controller, where FIG. 1 shows said note identifier input buttons SR1-SR8 to be played with a finger of said first hand, while the thumb actuated per-field effect value input device 5R is played with the thumb of said first hand as stated above.

In reference to claim 31, Matsushima et al. discloses a controller as stated above, where said thumb actuated per-field effect value input device 5R is shown in FIG. 1 to be a touch pad (operating pad) (column 9 lines 59-60).

In reference to claim 32, Matsushima et al. discloses a portable user operated polyphonic button-field electronic music controller. It is disclosed that for simplicity only the controller used by a user's right hand is disclosed, however a controller for a user's "left hand is also prepared in symmetrical shape" (column 5 lines 41-43). FIG. 2 shows said controller to have at least five finger actuated note identifier input buttons (push button switches SR1-SR8) in a two-dimensional first zone and similarly a two-dimensional third zone. FIG. 1 shows said note identifier input buttons SR1-SR8 to be actuated by at least one finger of a user's right hand and similarly said user's left hand,

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for generating a note identifier output used to create a musical note (column 8 lines 36-39).

A thumb actuated per-field effect value input device (operating pad 5R) is further shown in FIG. 1 to be in a second zone and similarly a fourth zone, and is actuated by the user's thumb on said right and left hands to produce a per-field effect value output (column 10 lines 3-11). This figure further shows said first and second zones—and therefore said third and fourth zones—to be arranged to allow simultaneous actuation of a plurality of said note identifier input buttons SR1-SR8, and the thumb actuated per-field effect value input device 5R for each hand.

In reference to claim 33, Matsushima et al. discloses a controller as stated above, where the thumb actuated per-field effect value input device 5R is multi-variate as can be seen from FIG. 4 (column 20-23).

In reference to claim 34, Matsushima et al. discloses a controller, where FIG. 1 shows said note identifier input buttons SR1-SR8 to be played with a finger of a given hand, while the thumb actuated per-field effect value input device 5R is played with the thumb of said given hand as stated above.

In reference to claim 37, Matsushima et al. discloses a controller as stated above, where said thumb actuated per-field effect value input device 5R is shown in FIG. 1 to be a touch pad (operating pad) (column 9 lines 59-60).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 29, 30, 35, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushima et al. (US 5,313,010) in view of Suzuki et al. (US 5,105,708).

In reference to claims 29 and 35, Matsushima et al. discloses a controller as stated above, but fails to explicitly disclose the note identifier input buttons to generate note actuation variable values based on channel pressure.

However Suzuki et al. teaches a portable user operated polyphonic button-field electronic music controller where finger actuated note identifier input buttons (finger selectors SR₁-SR₇) generate note actuation variable values through channel pressure (column 2 lines 37-44).

Since these references pertain to a portable user operated polyphonic button-field electronic music controller, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the controller disclosed by Matsushima et al. with providing the note identifier input buttons to generate note actuation variable values as taught by Suzuki et al. This would require a mere substitution of functions for different input devices and buttons. Doing so would provide

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a controller which can be programmed with specific requirements for a specific user, allowing easier use of said controller.

In reference to claims 30 and 36, Matsushima et al. modified by Suzuki et al. discloses a controller as stated above, where the note actuation variable values are mapped to musical effects such as volume, as can be seen from FIG. 13 of Suzuki et al.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER UHLIR whose telephone number is

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(571)270-3091. The examiner can normally be reached on Monday-Thursday 8:00am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on 571-272-2227.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER UHLIR/
Examiner, Art Unit 2837
September 8, 2008

/Jeffrey Donels/
Primary Examiner, Art Unit 2837